

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RAYNE DEE WELLS Jr.,

Plaintiff,

v.

JOHN DOE McLEAN,

Defendant.

CASE NO. C10-5097RJB

ORDER DENYING A STAY OF
DISCOVERY

This Civil Rights Action has been referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), and Local Magistrate Judge's Rule MJR3 and MJR4.

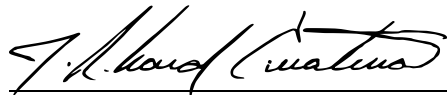
Defendant James McLean, through counsel, asks the court to stay discovery while a motion to dismiss is pending (Dkt. # 12). The motion to stay discovery is included as part of the motion to dismiss. The motion to dismiss is based on failure to exhaust administrative remedies. The motion to stay discovery is DENIED.

1 There is no automatic right to stay discovery pending resolution of dispositive motions.
2 Although discovery is routinely stayed or limited where qualified immunity has been raised as an
3 affirmative defense, Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982), defendant's motion to
4 dismiss does not involve the issue of qualified immunity. Further, while a court has wide
5 discretion in allowing or limiting discovery, a complete bar on discovery may prevent plaintiff
6 from gathering information he needs to respond to the motion.
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8 Here, the court sees no reason to prevent plaintiff from pursuing discovery while the
9 action is pending.

10 The Clerk's Office is directed to send plaintiff a copy of this order.

11 DATED this 7th day of June, 2010.

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14 J. Richard Creatura
15 United States Magistrate Judge
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